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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,892	11/28/2001	Jonathan Kahn	9761730-0015	1496

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EXAMINER

VO, HUYEN X

ART UNIT	PAPER NUMBER
2655	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/995,892	<b>Applicant(s)</b> KAHN ET AL.	
	<b>Examiner</b> Huyen Vo	<b>Art Unit</b> 2655	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellozy et al. (US Patent No. 5649060).
3. Regarding claim 1, Ellozy et al. disclose a method for permanently aligning text utterances to their associated audio utterances, the method comprising:  
  
    playing a first single audio utterance from a unitary audio file to produce a child single audio utterance, wherein the first single audio utterance is aligned with a first text utterance (*output of the decoding circuit or speech recognition circuit 103 in figure 2*);  
  
    recording the child single audio utterance into a child audio file (*Audio store 40 in figure 3*); and aligning the child single audio utterance with the first text utterance (*Audio-Text Alignment 48 in figure 3*).
4. Regarding claim 5, Ellozy et al. further teach the method of claim 1, wherein recording the child single audio utterance includes sending an output of a sound card to a sound recorder (*Audio Store 40*).

5. Regarding claim 6, Ellozy et al. further disclose the method of claim 1, after aligning the child single audio utterance with the first text utterance, the method further comprising: transmitting the child single audio utterance aligned with the first text utterance (*output monitor 62 and audio system in figure 2*).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4 and 7-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellozy et al. (US Patent No. 5649060) in view of Fado et al. (US Patent No. 6275805).

8. Regarding claims 7 and 14, Ellozy et al. disclose a computer implemented method and a machine-readable medium having stored thereon instructions for permanently aligning text utterances to their associated audio utterances, the method comprising:

(c) playing a first single audio utterance from a unitary audio file to produce a child single audio utterance (*output of the decoding circuit or speech recognition circuit 103 in figure 2*); (d) recording the child single audio utterance into a child audio file

(Audio store 40 in figure 3); and (e) repeating (c) through (d) until all first single audio utterances from the unitary audio file have been played (*the operation of figure 3 is a continuous process until the end of the audio file 12*).

Ellozy et al. fail to disclose the step of (a) finding a mixer utility associated with a sound card; and (b) opening the mixer utility, the mixer utility having settings that determine an input source and an output path. However, Fado et al. teach the step of (a) finding a mixer utility associated with a sound card (*col. 5, ln. 9-67*); and (b) opening the mixer utility, the mixer utility having settings that determine an input source and an output path (*col. 7, ln. 19 to col. 8, ln. 50*).

Since Ellozy et al. and Fado et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Ellozy et al. by incorporating the teaching of Fado et al. in order to enable the system to direct audio signal to flow in appropriate direction.

9. Regarding claims 2-4, Ellozy et al. fail to disclose the method of claim 1, wherein playing the first single audio utterance includes setting a mixer utility associated with a sound card to direct the output of the sound card to a sound recorder, prior to setting the mixer utility, storing initial settings of the mixer utility, and resetting the mixer utility to the initial settings. However, Fado et al. further teach that playing the first single audio utterance includes setting a mixer utility associated with a sound card to direct the output of the sound card to a sound recorder (*col. 5, ln. 63 to col. 6, ln. 24*), prior to setting the mixer utility, storing initial settings of the mixer utility (*col. 7, ln. 19 to col. 8,*

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*In. 50 or figure 19), and resetting the mixer utility to the initial settings (col. 7, In. 19 to col. 8, In. 50 or figure 19).*

Since Ellozy et al. and Fado et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Ellozy et al. by incorporating the teaching of Fado et al. in order to minimize adverse effects due to sound cards made by different manufacturers.

10. Regarding claims 8 and 15, Ellozy et al. fail to disclose the method and machine-readable medium of claims 7 and 14, further comprising: changing the mixer utility settings to mute audio output to speakers associated with the sound card. However, Fado et al. further teach the step of changing the mixer utility settings to mute audio output to speakers associated with the sound card (*col. 7, In. 19 to col. 8, In. 50 or figure 19*).

Since Ellozy et al. and Fado et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to further modify Ellozy et al. by incorporating the teaching of Fado et al. in order to minimize adverse effects due to sound cards made by different manufacturers.

11. Regarding claims 9 and 16, Ellozy et al. fail to disclose the method and machine-readable medium of claims 7 and 14, further comprising: saving the settings of the mixer utility; changing the settings of the mixer utility to specify the input source; and

restoring the saved settings of the mixer utility after all first single audio utterances from the unitary audio file have been played. However, Fado et al. further teach the steps of saving the settings of the mixer utility (*figure 19*); changing the settings of the mixer utility to specify the input source (*figure 19*); and restoring the saved settings of the mixer utility after all first single audio utterances from the unitary audio file have been played (*figure 19*).

Since Ellozy et al. and Fado et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to further modify Ellozy et al. by incorporating the teaching of Fado et al. in order to minimize adverse effects due to sound cards made by different manufacturers.

12. Regarding claims 11 and 18, Ellozy et al. further disclose a method and machine-readable medium of claims 7 and 14, wherein recording the child single audio utterance includes sending an output of a sound card to a sound recorder (*Audio Store 40*).

13. Regarding claims 12 and 19, Ellozy et al. further disclose the method and machine-readable medium of claims 7 and 14, after all first single audio utterances from the unitary audio file have been played, the method further comprising: transmitting from the child audio file at least one of the child single audio utterances (*output monitor 62 and audio system in figure 2*).

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14. Regarding claims 10 and 17, Ellozy et al. further disclose the method and machine-readable medium of claims 7 and 14, wherein the first single audio utterance is aligned with a first text utterance, the method further comprising: aligning the child single audio utterance with the first text utterance (*Audio-Text Alignment 48 in figure 3*).

15. Regarding claims 13 and 20, Ellozy et al. further disclose the method and machine-readable medium of claims 7 and 14, after recording the child single audio utterance into a child audio file, sequentially naming the child single audio utterance (*col. 5, ln. 47 to col. 6, ln. 30, time stamp of the audio data is considered as the name of the audio utterance because it represents the recording location of the audio data*).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Vo whose telephone number is 703-305-8665. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703-305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner Huyen X. Vo

September 13, 2004

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DAVID OMETZ  
PRIMARY EXAMINER  
ART UNIT 2653